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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/772,601      | 01/30/2001  | Thomas W. Poplawski  | JPM-033             | 1711             |

  

|   |               |                              |
|---|---------------|------------------------------|
| 7590 01/02/2009<br>Intellectual Property Department<br>Goodwin/Procter LLP<br>901 New York Avenue, NW<br>Washington, DC 20001 |               | EXAMINER<br>FELTEN, DANIEL S |
| ART UNIT  | PAPER NUMBER  |                              |
| 3696  |               |                              |
| MAIL DATE   | DELIVERY MODE |                              |
| 01/02/2009  | PAPER         |                              |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* THOMAS W. POPLAWSKI  
and KHOON-HONG TAN

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Application No. 09/772,601  
Technology Center 3600

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Mailed: January 2, 2009

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Before KRISTA ZELE *Deputy Chief Appeals Administrator*  
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on July 9, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

**AMENDMENT AFTER FINAL**

A review of the file indicates that on September 13, 2005, Appellant filed an Amendment After Final in response to the Final Rejection mailed June 13, 2005. It is not clear whether this Amendment has been considered because an Advisory Action has not been mailed or because box 7 of an Advisory Action fails to indicate whether or not the proposed amendment will or will not be entered for purposes of appeal. Clarification from the Examiner is required.

**EXAMINER'S ANSWER, EVIDENCE RELIED UPON**

Section §1207.02 of the *Manual of Patent Examining Procedure* (MPEP) (Eighth Edition, Rev. 6, September 2007) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

....

- (8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of nonpatent references, the relevant page or pages.

The Examiner's Answer mailed June 20, 2006 is deficient because the "Evidence Relied Upon" section fails to include the references Hilt et al. US

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5,465,206 and Schutzer US 6,292,789 which are cited on page 9 in the Examiner's Answer's grounds of rejection of claims 1-32 under 35 U.S.C. § 103(a).

Appropriate correction is required.

### **CONCLUSION**

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- 1) appropriately respond to the Amendment After Final;
- 2) vacate the Examiner's Answer mailed June 20, 2006;
- 3) provide a new Examiner's Answer including a correct "Status of Amendment" section in addition to correction to other sections as required;
- 4) and properly listing all cited references under the Evidence Relied Upon section, paragraph (8); and
- 5) such further action as may be required.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/kis

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